
STATUTORY INSTRUMENTS

2018 No. 999

**EXITING THE EUROPEAN UNION
IMMIGRATION
NATIONALITY**

**The Immigration and Nationality (Fees)
(Amendment) (EU Exit) (No. 2) Regulations 2018**

Made - - - - 12th September 2018

Laid before Parliament 13th September 2018

*Coming into force in accordance with regulation 1(2),
(3) and (4)*

The Secretary of State makes the following Regulations with the consent of the Treasury, in exercise of the powers conferred by sections 68(1), (7), (8) and (10)(a) and (b), 69(2) and 74(8)(a) and (b) of the Immigration Act 2014⁽¹⁾. These Regulations are made further to provision in the Immigration and Nationality (Fees) Order 2016⁽²⁾.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Immigration and Nationality (Fees) (Amendment) (EU Exit) (No. 2) Regulations 2018.

(2) Except as provided by paragraphs (3) and (4), these Regulations come into force on 8th October 2018.

(3) Regulation 3(2) (amendment to the definition of “administrative review”) comes into force on the day that changes in the immigration rules⁽³⁾ come into force providing for the administrative review of decisions in respect of applications under Appendix EU to those rules⁽⁴⁾.

(4) Regulation 6(h) (fee for a contractor making equipment available for taking a record of biometric information) comes into force on 10th October 2018.

(1) 2014 c. 22. Treasury consent has been obtained pursuant to section 69(1). Sections 68 to 70 were extended to the Isle of Man, with modifications, by articles 5, 7 and 8 of the Immigration (Isle of Man) (Amendment) Order 2015 (S.I. 2015/1765) which inserted new articles 22 and 23, new Schedule 9A and new Part 8 of Schedule 10 in the Immigration (Isle of Man) Order 2008 (S. I. 2008/680). There are other amendments to S.I. 2008/680 not relevant to these Regulations.

(2) S.I. 2016/177; amended by S.I. 2017/440, 2018/329.

(3) Laid before Parliament on 23rd May 1994 (HC 395), as amended. Section 3(2) of the Immigration Act 1971 (c. 77) requires a statement of any changes in the immigration rules laid down by the Secretary of State to be laid before Parliament.

(4) Appendix EU was laid before Parliament on 20th July 2018 (Cm 9675).

(5) The amendments made by these Regulations have the same extent as the provisions they amend.

Amendments to the Immigration and Nationality (Fees) Regulations 2018

2. The Immigration and Nationality (Fees) Regulations 2018(5) are amended as follows.

3.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In the definition of “administrative review”, at the end insert “or, for the purposes of paragraphs 1 and 3 of Schedule 11 as they apply to the review of a decision in respect of an application under Appendix EU to the immigration rules, as provided in the provisions of those rules that provide for such a review”.

(3) In the definition of “certificate of sponsorship”—

- (a) in paragraph (a) omit “in respect of the United Kingdom”;
- (b) omit paragraph (b).

(4) In the definition of “shortage occupation certificate of sponsorship”—

- (a) in paragraph (a) omit “in respect of the United Kingdom”;
- (b) omit paragraph (b).

(5) In the definition of “sponsor”—

- (a) in paragraph (a) omit “in respect of the United Kingdom”;
- (b) omit paragraph (b).

(6) In the definition of “sponsored worker”—

- (a) in paragraph (a) omit “in respect of the United Kingdom”;
- (b) omit paragraph (b).

(7) In the definition of “Tier 2 Migrant”, “Tier 2 (General) Migrant”, “Tier 2 (Intra-Company Transfer) Migrant”, “Tier 2 (Minister of Religion) Migrant” and “Tier 2 (Sportsperson) Migrant”—

- (a) in paragraph (a) omit “in respect of the United Kingdom”;
- (b) omit paragraph (b).

(8) In the definition of “Tier 2 (Intra-Company Transfer) Long Term Staff Migrant”, “Tier 2 (Intra-Company Transfer) Graduate Trainee Migrant”, and “Tier 2 (Intra-Company Transfer) Short Term Staff Migrant”—

- (a) in paragraph (a) omit “in respect of the United Kingdom”;
- (b) omit paragraph (b).

4.—(1) Schedule 2 (applications for leave to remain in the United Kingdom) is amended as follows.

(2) In Table 9 (exceptions and waivers in respect of fees for applications for, or in connection with, leave to remain in the United Kingdom) at the end insert—

“9.14 Applications for leave to remain in the United Kingdom by relevant Afghan citizens and their dependants

9.14.1 No fee is payable in respect of an application for limited leave to remain in the United Kingdom made under paragraph 305 of the immigration rules in respect of a child of a person given limited leave to enter the

United Kingdom as a relevant Afghan citizen under paragraph 276BA1 of the immigration rules.

9.14.2 No fee is payable in respect of an application for indefinite leave to remain in the United Kingdom made under paragraph 276BS3 of the immigration rules. Fee 8.1.1

9.15 Applications for indefinite leave to remain in the United Kingdom by persons relocated to the United Kingdom under section 67 of the Immigration Act 2016(6) (unaccompanied refugee children: relocation and support)

No fee is payable in respect of an application for indefinite leave to remain in the United Kingdom made under paragraph 352ZN of the immigration rules. Fee 8.1.1”

(3) In paragraph 5—

- (a) in sub-paragraph (1)(b) after “before that application” insert “(“the first application”);
- (b) in sub-paragraph (2) at the end insert “, subject to sub-paragraph (3)”;
- (c) after sub-paragraph (2) insert—

“(3) Where sub-paragraph (1) applies and the further application is an application under Appendix EU to the immigration rules, sub-paragraph (2) does not apply and the Secretary of State must refund any fee (or fees) paid in respect of the first application.”

5.—(1) Schedule 3 (documents and administration) is amended as follows.

(2) In paragraph 2(2) at the end insert “and for processing an application or claim which is later rejected as invalid”.

(3) In Table 10 (fees for miscellaneous documents and services)—

- (a) in 10.8 in the heading, for “Fee” substitute “Fees”;
- (b) in 10.8.1 in the second column at the end insert “, other than an application to which 10.8.2 or 10.8.3 applies”;
- (c) after 10.8.1 insert—

“10.8.2 Processing an application for leave to remain in the United Kingdom made under Appendix EU to the immigration rules which is rejected as invalid prior to a decision being issued, where the applicant was aged 16 or over on the day the application was made. £65

10.8.3 Processing an application for leave to remain in the United Kingdom made under Appendix EU to the immigration rules which is rejected as invalid prior to a decision being issued, where the applicant was under the age of 16 on the day the application was made. £32.50”

(4) In Table 11 (exceptions to requirement to pay fees for applications for travel documents)—

- (a) in the heading, after “travel documents” insert “and for processing an application or claim later rejected as invalid”;
- (b) at the end insert—

“11.5 Processing an application or claim which is later rejected as invalid

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No fee is payable in respect of the processing of an application or claim which is rejected as invalid prior to a decision being issued where—	Fees 10.8.1 to 10.8.3”
(a) no fee was payable in respect of that application or claim; or	
(b) a fee was payable in respect of that application or claim but no fee was paid at the time the application or claim was made.	

6. In Schedule 6 in Table 17 (premium services in the United Kingdom)—
- (a) in 17.1.2—
 - (i) in the second column omit “, and is not made under the super premium service”;
 - (ii) in the third column for “£510” substitute “£610”;
 - (b) in 17.2 for the heading substitute “Fee for the provision of a service outside office hours”;
 - (c) omit 17.2.1;
 - (d) in 17.2.2 for the words in the second column substitute “The provision of a service outside office hours at a premium service centre operated by the Home Office, where the application is made in the United Kingdom and the fee at 17.1.2 is also payable.”;
 - (e) omit 17.3, 17.3.1 and 17.3.2;
 - (f) in 17.4 in the heading, for “Fees” substitute “Fee for attendance by a representative of the Secretary of State”;
 - (g) omit 17.4.2;
 - (h) after 17.4.1 insert—

“17.4A Fee for a contractor making equipment available for taking a record of biometric information at a location chosen by the applicant

17.4A.1	The provision of a service by a contractor comprising the making of equipment to enable a record of biometric information to be provided in connection with an immigration or nationality application, where the equipment is made available at a location in the United Kingdom chosen by or on behalf of the applicant (other than an office of the Home Office or any other location offered by the Home Office or a contractor for selection by the applicant).	£650 per hour per represent— ative of the contractor attending the location in connect— -ion with making the equipment available”
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7.—(1) Schedule 9 (applications in relation to entry clearance to enter the Isle of Man and premium services) is amended as follows.

(2) In Table 21 (fees for applications for entry clearance to enter the Isle of Man) omit 21.2.9 to 21.2.13.

(3) In Table 22 (specified fees for dependants) omit 22.1.4.

(4) In paragraph 4(2) omit paragraph (d).

11th September 2018

Caroline Nokes
Minister of State
Home Office

We consent

12th September 2018

Craig Whittaker
Rebecca Harris
Two of the Lords Commissioners of Her
Majesty's Treasury

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Immigration and Nationality (Fees) Regulations 2018 (“the principal Regulations”).

Regulation 3(2) amends the definition of “administrative review” to define that expression for the purposes of paragraphs 1 and 3 of Schedule 11 to the principal Regulations as they apply to the review of decisions in respect of applications for leave to remain in the United Kingdom under Appendix EU to the immigration rules (which provides for the granting of leave to EU citizens and others). At the date on which these Regulations were made, those provisions of the principal Regulations did not apply to the review of such decisions because the immigration rules had not been amended to provide for the administrative review of such decisions to be available. Therefore, regulation 1(3) provides that the amendment to the definition of “administrative review” made by regulation 3(2) comes into force when the necessary amendments to the immigration rules themselves come into force, and not before.

The remainder of regulation 3, and regulation 7, revoke provisions relating to applications for entry clearance to enter the Isle of Man as a Tier 2 Migrant or the dependant of such a Migrant. The Isle of Man immigration rules no longer provide for such applications: they have been replaced by applications for entry clearance as a Worker Migrant or a Worker (Intra Company Transfer) Migrant or as a dependant of such a Migrant, for which fees are specified in Table 21 in Schedule 9 to the principal Regulations and in paragraph 3 of that Schedule.

Regulation 4 concerns the fees currently payable under Schedule 2 to the principal Regulations for applications for leave to remain in the United Kingdom. It makes three sets of changes. Regulation 4(2) provides a fee exception for applications for limited leave to remain made by children of a parent who has been given limited leave to enter the United Kingdom as a “relevant Afghan citizen” (defined in paragraph 276BB1 of the immigration rules). It also provides a fee exception for such children and for relevant Afghan citizens themselves and their other dependants when they come to apply for indefinite leave to remain in the United Kingdom. Regulation 4(2) also adds a new (unrelated) fee exception for applications for indefinite leave to remain made by persons relocated to the United Kingdom as unaccompanied refugee children under section 67 of the Immigration Act 2016. Finally, regulation 4(3) amends paragraph 5 of Schedule 2 to the principal Regulations to provide for the refund of any fees paid for an application for leave to remain in the United Kingdom where the application is varied by a subsequent application for leave to remain made under Appendix EU to the immigration rules.

Regulation 5 amends Schedule 3 to the principal Regulations. The amendments made by regulation 5(3) set fees for the processing of applications under Appendix EU to the immigration rules which are rejected as invalid. The amendments made by regulation 5(2) and (4) provide a fee exception for the processing of any application or claim which is later rejected as invalid where no fee was payable in respect of the application or claim itself (including where any applicable fee was waived) or where a fee was payable but no fee was in fact paid at the time when the application or claim was made.

Regulation 6 makes various amendments to Table 17 in Schedule 6 to the principal Regulations, which provides fees for premium services in the United Kingdom. The amendments set fees for services provided by contractors under new arrangements for processing immigration and nationality applications. The amendments made by regulation 6(a), (c) and (g) also have the effect of providing a single fee applying both to applications for the expedited processing of an application made under

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the “super premium service” and applications for the expedited processing of an application made otherwise than under that service (the latter currently involves payment of a separate fee under 17.2.1 for arranging an appointment). There is no increase in the overall amount currently chargeable for these applications.

A full impact assessment has not been produced for this instrument because no, or no significant, impact on the private, voluntary or public sector is foreseen.